

State of Connecticut

GENERAL ASSEMBLY



PERMANENT COMMISSION ON THE STATUS OF WOMEN

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**Testimony of
Leslie Gabel-Brett, Ph.D.
Executive Director
Permanent Commission on the Status of Women
Before the
Judiciary Committee
March 7, 2005**

Re:

R.B. 6698, An Act Concerning Deprivation of Rights on Account of Sexual Orientation

R.B. 1120, An Act Concerning Joint Legal and Physical Custody and Equal Parental Rights in Custody Determinations

Good afternoon Sen. McDonald, Rep. Lawlor and members of the Committee. My name is Leslie Gabel-Brett and I am the Executive Director of the Permanent Commission on the Status of Women. Thank you for this opportunity to testify regarding R.B. 6698, An Act Concerning Deprivation of Rights on Account of Sexual Orientation and R.B. 1120, An Act Concerning Joint Legal and Physical Custody and Equal Parental Rights in Custody Determinations.

R.B. 6698, An Act Concerning Deprivation of Rights on Account of Sexual Orientation

The goal of this proposed legislation is to ensure that the Commission on Human Rights and Opportunities has jurisdiction over claims of discrimination on the basis of sexual orientation against students in our public schools. As you know, the General Assembly prohibited discrimination against students on the basis of sexual orientation in 1997 by adding the category of sexual orientation into the statutes regarding discrimination in public schools at C.G.S 10-15c. However, the enforcement mechanism for the protections included in this section of the statutes is unclear.

Last summer, the Connecticut Supreme Court ruled in a case involving an allegation of race discrimination against a student in a public school that the Commission on Human Rights and Opportunities has jurisdiction to investigate and remedy such claims (*CHRO v. the Board of Education of the Town of Cheshire, et. al.*) In making the ruling, they invoked the CHRO's authority under C.G.S. 46a-58 regarding deprivation of rights. This statute, originally enacted in 1948 and last amended in 1984, does not include sexual orientation. Passage of the proposed bill will ensure that the CHRO has jurisdiction over claims of discrimination in public schools on the basis of sexual orientation, *consistent* with its jurisdiction over similar claims of discrimination against students on the basis of race, sex, religion and so on.

As you know, discrimination against students in public schools based on their sexual orientation or perceived sexual orientation can be intense and damaging. The General Assembly already recognized the importance of protecting students against such discrimination and establishing the right of every student to obtain an education free from harassment and harm. However, a legal protection without adequate enforcement or remedy cannot help a student who is facing discrimination. We urge passage of the proposed bill.

R.B. 1120, An Act Concerning Joint Legal and Physical Custody and Equal Parental Rights in Custody Determinations

The purpose of this proposed legislation is to ensure equal rights for both parents in the making of custody determinations in cases of divorce, legal separation, or annulment. The PCSW supports the goal. Gender stereotypes harm both males and females and are always unacceptable in the courtroom, and we acknowledge that there are some family law cases where fathers are unfairly excluded or limited in custody or visitation because of an unacceptable bias in favor of mothers. However, we believe this injustice should be addressed through vigorous judicial education, not by creating a legal presumption that could lead to more conflict between parents and not serve the best interests of the children.

If the parents have a reasonable relationship, they should and will agree to joint custody. However, when they do not have such a relationship, this legal presumption creates a situation whereby quarreling parents who may or may not be sharing parenting at the time of the divorce – or who may not be living together – can threaten one another with increased court intervention and legal fighting. As you know, the vast majority of family law cases are concluded by agreement, rather than by trial. As a matter of public policy, we believe that models that encourage mediated agreements and discourage litigation are in the best interests of children and families.

Section 2 (e) of this proposal provides that any parent proven to have made false allegations regarding the parental suitability of the other parent forfeits his or her legal right to custody. Although the proposal attempts to address frivolous claims by applying a clear and convincing evidence standard, this section could have a chilling effect on negotiations based on genuine concerns and could be used to coerce and threaten one party into an agreement that is not in the best interests of the children. This is a very heavy hammer, and one that most parents would fear and go to great lengths to avoid.

Family law disputes are difficult and emotional. Sometimes, they cost more money than the parents can afford, and sometimes one party uses the threat or reality of on-going legal action to wear down the other party in a dispute. We currently have a legal scheme that puts the best interests of children first, and requires that parents be treated equally under the law. When parents are unable to reach an agreement about custody and visitation, we respectfully recommend that family relations services, mediation, judicial education and other family supports are preferable to increased legal requirements. We would be happy to work further with this Committee in strengthening these and other strategies to protect the best interests of children and families.

